

Dan Stormer, Esq. [S.B. # 101967]  
Brian Olney, Esq. [S.B. #298089]  
HADSELL STORMER RENICK & DAI LLP  
128 N. Fair Oaks Avenue  
Pasadena, California 91103  
T: (626) 585-9600  
F: (626) 577-7079  
Emails: dstormer@hadsellstormer.com  
bolney@hadsellstormer.com

Attorneys for Plaintiff  
Emma Adams

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AQUA 388 COMMUNITY  
ASSOCIATION, FIRSTSERVICE  
RESIDENTIAL CALIFORNIA, LLC,  
REBECCA HAWKINS, CHRISTOPHER  
HARRINGTON, and AQUA  
MAINTENANCE CORPORATION,

Defendants.

EMMA ADAMS, an individual,

Plaintiff,

v.

AQUA 388 COMMUNITY  
ASSOCIATION, FIRSTSERVICE  
RESIDENTIAL CALIFORNIA, LLC,  
REBECCA HAWKINS, CHRISTOPHER  
HARRINGTON, and AQUA  
MAINTENANCE CORPORATION,

Defendants.

Case No.: 2:23-cv-02498-SB-JPR

[Assigned to the Honorable Stanley  
Blumenfeld – Courtroom 6C]

**DECLARATION OF BRIAN OLNEY  
IN SUPPORT OF RESPONSE TO  
ORDER TO SHOW CAUSE RE  
SANCTIONS**

Complaint filed: April 3, 2023  
Trial Date: July 8, 2024

1 I, Brian Olney hereby declare and say:

2 1. I am a partner at the law firm of Hadsell Stormer Renick & Dai LLP. I am  
3 an attorney licensed to practice law in California and before this Court, and am counsel  
4 of record for Plaintiff in this action. I was admitted to practice in 2014. The information  
5 contained herein is based on my personal knowledge, or upon review of files and  
6 documents generated or received and regularly maintained by my office in connection  
7 with this case. If called upon, I could testify in a court of law to the accuracy of the  
8 matters set forth herein.

9 2. In accordance with the Court's July 12, 2024, Order to Show Cause Re  
10 Sanctions ("OSC"), I submit the following response.

11 3. I deeply apologize for my statement during Plaintiff's closing rebuttal  
12 argument asking the jury, "Where is the lawyer?" My statement was wrong. I should  
13 not have made it. I deeply regret my action and take full responsibility for its  
14 consequences.

15 4. My statement was not justified, and I will not attempt to justify it here.

16 5. The Court's OSC cites to Local Rules 83-3.1.2, 83-3.1.3, and 83-7.

17 6. Local Rule 83 addresses the Court's authority to utilize a range of  
18 procedures to address instances of attorney misconduct. Local Rule 83-7 addresses  
19 various sanctions that the Court may issue based upon the attorney's intent and state of  
20 mind. The application of the Court's inherent authority is also guided by the Court's  
21 findings of bad faith and willfulness. *See Fink v. Gomez*, 239 F.3d 989, 992 (9th Cir.  
22 2001) ("[T]he district court has the inherent authority to impose sanctions for bad faith,  
23 which includes a broad range of willful improper conduct. . . . [A] specific finding of  
24 bad faith . . . must 'precede any sanction under the court's inherent powers.'" (quoting  
25 *United States v. Stoneberger*, 805 F.2d 1391, 1393 (9th Cir. 1986)).

26 7. I agree that my argument was improper. Below, I will attempt to explain  
27 my intent and state of mind leading up to Plaintiff's rebuttal closing argument.

28 8. When I began my closing argument, I had not planned to make the

1 offending statement. On the evening of July 11, 2024, I believed that closing arguments  
2 would not occur until the end of the day on July 12, and likely not until the morning of  
3 July 13. After the Defendants unexpectedly chose not to call Chris Harrington and Joan  
4 Stiehl and rested their case shortly before noon, the Court ordered the Parties to return  
5 by 1:00 P.M. to deliver closing arguments. I had only a portion of my closing argument  
6 prepared and worked during the lunch break to draft it. I had no plan to draw attention  
7 to the fact that Mr. Rabkin did not testify. I had not yet written my rebuttal and intended  
8 to base it upon the Defendants' closing arguments.

9 9. As I jotted down notes for my rebuttal during Defendants' closing  
10 arguments about the evidence at trial, I had the idea to emphasize the evidence that the  
11 Defendants had not put on and had not attempted to explain away during their closing  
12 arguments. I wrote down three examples consisting of Ms. Stiehl, Mr. Harrington, and  
13 Mr. Rabkin—remarks I ultimately delivered in closing rebuttal. I was aware of the *in*  
14 *limine* order excluding Mr. Rabkin from testifying but in the heat of closing arguments  
15 improperly focused on the Defendants' role in not disclosing this witness in discovery,  
16 which was one basis for my motion to exclude him. I believed that the Defendants  
17 would have had the ability to call Mr. Rabkin to testify at trial had they properly  
18 disclosed him during discovery, but they chose not to, resulting in Plaintiff's motion to  
19 exclude this witness.

20 10. Focusing on the Defendants' actions and the basis for my motion was a  
21 mistake. I should have focused only on the fact that the Court had excluded Mr. Rabkin  
22 based upon a motion I had filed and argued. I made a serious error, but respectfully  
23 submit that it was not willful, grossly negligent, or motivated by bad faith.

24 ///

25 ///

26 ///

1 11. Once again, I apologize to the Court.

2  
3 I declare under penalty of perjury under the laws of the State of California and the  
4 United States of America that the foregoing is true and correct. Executed this 19th day of  
5 July 2024, in Pasadena, California.

6  
7 By: /s/ Brian Olney  
8 Brian Olney  
9 Attorneys for Plaintiff  
10 Emma Adams  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28